

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CHARLES RASO, TRUSTEE OF THE)	
MASSACHUSETTS BRICKLAYERS)	
AND MASONS HEALTH AND WELFARE,)	
PENSION AND ANNUITY FUNDS,)	
)	
Plaintiff,)	C. A. No.
)	
v.)	
)	
LUXUS MARBLE & GRANITE, LLC,)	
)	
Defendant.)	

COMPLAINT

1. This is an action under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, et seq., as amended by the Multi-Employer Pension Plan Amendments Act (“MPPAA”), 29 U.S.C. § 1381 et seq., brought on behalf of Massachusetts Bricklayers and Masons Health and Welfare, Pension and Annuity Funds (“Funds”) for injunctive relief.

2. This court has jurisdiction pursuant to 29 U.S.C. § 1132(e)(1) and venue lies in this district pursuant to 29 U.S.C. § 1132(e)(2).

3. Plaintiff, Charles Raso, is the Trustee of the Funds and is a “fiduciary” within the meaning of Section 502(a)(3) of ERISA, 29 U.S.C. § 1132(a)(3). The Funds are “multi-employer plans” within the meaning of Section 3(37)(A) of ERISA, 29 U.S.C. § 1002(37)(A) and “employee benefit plans” or “plans” within the meaning of Section 3(3) of ERISA, 29 U.S.C., § 1002(3). The Funds have a principal office at and are administered from 645 Morrissey Boulevard, Boston, MA.

4. Defendant Luxus Marble & Granite, LLC (“Luxus”) is an employer with a place of business in Cranston, RI.

5. Defendant Luxus is an “employer” within the meaning of 29 U.S.C. § 1002(5) and an employer in an industry affecting commerce within the meaning of 29 U.S.C. § 152(2), (6) and (7).

6. Bricklayers and Allied Craftsmen Local Union No. 3 Massachusetts, Maine, New Hampshire, Rhode Island (“BAC Local 3”) is a “labor organization” within the meaning of 29 U.S.C. §152(5).

7. At all material times, Defendant Luxus was obligated by the terms of one or more collective bargaining agreements (“CBA”) between it and BAC Local 3 and by the terms of Agreements and Declarations of Trust of each Fund to make contribution payments to the Funds on behalf of certain employees.

8. Monthly contributions are submitted by contributing employers to the Funds with required contributions reports which detail hours of service worked by employees covered by the CBA.

9. Pursuant to the CBA and Trust agreements, Defendant Luxus is required to provide the Fund with access to the pertinent payroll records and general ledgers, including, but not limited to, all quarterly and yearly payroll tax returns, payroll listings, time reports, cash disbursement journals, individual earnings records and checks, whenever such examination is deemed necessary by the Trustees, or their authorized representatives.

10. Examination of such records are necessary for the proper administration of the Fund to ensure that contributions are reported and paid in compliance with the CBA and Trust Agreements and to ensure that benefits are properly paid to participants.

11. Plaintiff has requested documents from Defendant Luxus for the period of April 2015 through March 2018. See attached Exhibit A.

12. Defendant Luxus has refused to comply with Plaintiff's request for records.

WHEREFORE, Plaintiff demands that judgment enter against Defendant Luxus in accordance with Section 502 of ERISA, 29 U.S.C. § 1132(g)(2),

1. Ordering Defendant to produce documents in compliance with its agreements as stated in Exhibit A of this Complaint;
2. Ordering the Defendant to pay all costs and reasonable attorneys' fees incurred by the Funds in connection with this action; and
3. Ordering such other and further relief as this court may deem just and proper.

Dated: November 29, 2018

Respectfully submitted,

Catherine M. Campbell, Esq.
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/s/ Catherine M. Campbell
Attorney for Plaintiff
Charles Raso, Trustee

CERTIFICATE OF SERVICE

I, Catherine M. Campbell, hereby certify that I caused a copy of the foregoing to be sent on this date by certified mail, return receipt requested, to the United States Secretaries of Labor and Treasury.

Dated: November 29, 2018

Catherine M. Campbell
Catherine M. Campbell, Esq.